

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to licensing and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 10, “Insurance Producer Licenses and Limited Licenses,” Chapter 48, “Viatical and Life Settlements,” Chapter 55, “Licensing of Public Adjusters,” and Chapter 58, “Third-Party Administrators,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 508E.19, 510.9, 522B.18 and 522C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 508E, 510, 522B and 522C and 2020 Iowa Acts, House File 426.

Purpose and Summary

The Division proposes to amend Chapters 10, 48, 55, and 58 as part of the Division’s review of rules and to implement 2020 Iowa Acts, House File 426, which allows for the Commissioner to require producers, viatical settlement brokers, viatical settlement providers, and public adjusters applying for an initial license or applying for renewal, reinstatement or reissuance of a suspended or revoked license to submit fingerprints for a criminal history check.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Division’s general waiver provisions of 191—Chapter 4 apply to these rules.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commissioner no later than 4 p.m. on September 7, 2020. Comments should be directed to:

Prior to August 21, 2020:
Tracy Swalwell
Iowa Insurance Division
Two Ruan Center
601 Locust Street, Fourth Floor
Des Moines, Iowa 50309
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Starting August 21, 2020:
Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held electronically, with no in-person attendance, as follows:

September 7, 2020
10 to 11 a.m.

Persons wishing to attend the conference call hearing should contact Tracy Swalwell. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 10.4(1) as follows:

10.4(1) A person whose home state is Iowa and who desires to be licensed as a producer must satisfy the following requirements:

- a. Be at least 18 years of age;
- b. Have not committed any act that is grounds for denial under subrule 10.20(4);
- c. Submit a completed uniform application;
- d. Pass an examination in the line of authority sought; ~~and~~;
- e. Pay the appropriate producer license fee; and
- f. Submit to a criminal history check pursuant to Iowa Code section 522B.5.

ITEM 2. Amend subrule 10.5(1) as follows:

10.5(1) A producer for whom Iowa is not the home state who desires to sell, solicit or negotiate insurance in Iowa must satisfy the following requirements to obtain an Iowa nonresident producer license:

- a. Be licensed and in good standing in the home state;
- b. Submit a proper request for licensure to the division through the NIPR Gateway; ~~and~~
- c. Pay the appropriate fee; and
- d. Submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7, if a state and national criminal history check has not already been completed.

ITEM 3. Amend subrule 10.6(2) as follows:

10.6(2) An individual producer whose license has expired may seek reinstatement or reissuance as set forth in rule 191—10.9(522B) or 191—10.10(522B), as applicable.

ITEM 4. Amend rule 191—10.9(522B) as follows:

191—10.9(522B) License reinstatement.

10.9(1) No change.

10.9(2) A nonresident producer may reinstate an expired license up to 12 months after the expiration date by submitting a request through the NIPR Gateway and by paying a reinstatement fee and a license renewal fee. A nonresident producer who fails to apply for a license reinstatement within 12 months of the license expiration date or fails to update the nonresident producer's address pursuant to subrule 10.12(3) must apply for license reissuance.

10.9(3) A producer who has surrendered a license ~~for a nondisciplinary reason~~ that was not in connection with a disciplinary matter and stated an intent to exit the insurance business may file a request to reactivate the license. The request must be received at the division within 90 days of the date the license was placed on inactive status. The request will be granted if the former producer is otherwise eligible to receive the license. If the request is not received within 90 days, the producer must apply for a new license.

10.9(4) A producer whose license was suspended, revoked, forfeited in connection with a disciplinary matter, or forfeited in lieu of compliance is not eligible for reinstatement under this rule and must follow the procedures in rule 191—10.10(522B).

ITEM 5. Amend rule 191—10.10(522B) as follows:

191—10.10(522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

10.10(1) Terminology. The term “reinstatement” as used in this rule means the reinstatement of a suspended license. The term “reissuance” as used in this rule means the issuance of a new license following the revocation of a license, the suspension and subsequent termination of a license, or the forfeiture of a license in connection with a disciplinary matter, including but not limited to proceedings pursuant to rule 191—10.21(252J,272D). Disciplinary matters include, but are not limited to, being the subject of an investigation, complaint, or pending administrative action in this or any other state. This rule does not apply to the reinstatement of an expired license or the issuance of a new license that is not in connection with a disciplinary matter.

10.10(2) Application required. Any producer whose license has been revoked or suspended by order or who forfeited a license in connection with a disciplinary matter must apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture and submit to a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7.

a. All proceedings for reinstatement or reissuance must be initiated by the applicant, who shall file with the commissioner an Iowa Insurance Producer Application for Reinstatement or ~~an Iowa Insurance Producer Application for Reissuance After Disciplinary Action.~~ An applicant is not eligible for reinstatement or reissuance until the applicant has satisfied the other prescribed requirements of rule 191—10.4(522B), including the timing requirements of subrule 10.4(4). An applicant may also have to submit a new or renewal producer application through the NIPR Gateway and pay any associated fee.

b. to f. No change.

g. The period of suspension shall continue, regardless of any specified suspension end date, until such time as the producer's license is reinstated by order.

10.10(3) No change.

10.10(4) Order. An order of reinstatement or reissuance must be a written decision that incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems appropriate, which may include one or more of the types of disciplinary sanctions provided by Iowa Code section 522B.11. The producer's license will be reinstated or reissued on the date of the order, unless the order specifies a different date. The order is a public record and may be disseminated in accordance with Iowa Code chapter 22.

10.10(5) No change.

10.10(6) ~~Suspension~~ Reinstatement in relation to expiration date. ~~When a producer's license has been suspended for a period of time that extends beyond the producer's license expiration date, the license terminates at the license expiration date, and the producer must request reissuance pursuant to~~

~~subrule 10.10(2). However, reissuance will not be effected until the suspension period has ended. If a producer's ordered suspension for a period of time ends prior to the producer's license expiration date and the producer has met all applicable requirements applies for reinstatement prior to the license expiration date, the commissioner must reinstate the license as soon as practicable but no earlier than the end of the suspension period if the division determines the license should be reinstated after a complete review. However, the commissioner is not prohibited from denying an application for reinstatement or reissuance or bringing an additional immediate action if the producer has engaged in any additional violation of Iowa Code section 507B.4 or 522B.11(1) or otherwise failed to meet all of the applicable requirements.~~

10.10(7) *Suspension beyond expiration date.* When a producer's license is suspended beyond the producer's license expiration date, whether due to an ordered suspension time period or failure to apply for reinstatement prior to expiration as stated in subrule 10.10(6), the license terminates on the license expiration date and the producer must apply for reissuance pursuant to subrule 10.10(2).

10.10(8) *Application denial or additional action.* The commissioner is not prohibited from denying an application for reinstatement or reissuance or bringing an additional immediate action if the producer has engaged in any additional violation of Iowa Code section 507B.4 or 522B.11(1) or otherwise failed to meet all of the applicable requirements.

ITEM 6. Amend subrule 10.12(1) as follows:

10.12(1) If a producer's name is changed, the producer must file notification with the division ~~through the NIPR Gateway at www.NIPR.com, unless the division instructs otherwise, as instructed on the division's website,~~ within 30 days of the name change. The notification must include ~~the producer's:~~

- ~~a. Prior~~ The producer's prior name;
- ~~b. License~~ The producer's license number; ~~and~~
- ~~c. New~~ The producer's new name; ~~and~~
- ~~d. A copy of a legal document with proof of the name change.~~

ITEM 7. Adopt the following **new** subrule 10.26(8):

10.26(8) The fee for a criminal history check as required pursuant to Iowa Code section 522B.5 is \$50.

ITEM 8. Amend rule 191—48.2(508E), introductory paragraph, as follows:

191—48.2(508E) Definitions. For purposes of this chapter, the definitions in Iowa Code ~~chapter 508E~~ section 508E.2 are incorporated by reference. In addition to those definitions and the definitions in rule 191—1.1(502,505), the following definitions apply:

ITEM 9. Amend paragraph **48.3(1)“a”** as follows:

~~a. To be considered for licensure as a viatical settlement provider pursuant to Iowa Code section 508E.3, a person must file with the commissioner a completed viatical settlement provider license application in the format prescribed by the commissioner; submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7; pay an application fee in the amount of \$100; and provide the following:~~

~~(1) Copies of the viatical settlement provider's audited financial statements for the current year and each of the previous five years. At the commissioner's discretion, the applicant also shall provide a copy of the current year's consolidated annual audited financial statement with a financial guarantee from the provider's ultimate controlling person, and copies of the provider's unaudited financial statements for the current year and each of the previous five years;~~

~~(2) to (4) No change.~~

~~(5) An independent business character report on the individuals listed in subparagraph (4). The business character report shall be filed directly with the commissioner by the independent third party that certified the report. The business character report shall be in a format prescribed by the commissioner and shall not be older than one year prior to the date the application is filed. For purposes of this subparagraph (5), “business character report” means a statement certified by an independent third party which has conducted a comprehensive review of the applicant's background and has indicated that the~~

biographical information provided in the report, as completed by the applicant, has no inaccurate or conflicting information. An independent third party is one that has no affiliation with the applicant and is in the business of providing background checks or investigations. Business character reports must be current and shall not be older than one year prior to the date the application is filed. The business character report shall be in the format prescribed by the commissioner;

(6) to (8) No change.

ITEM 10. Amend paragraph **48.3(2)“a”** as follows:

a. To be considered for licensure as a viatical settlement broker pursuant to Iowa Code section 508E.3, a person must file a completed viatical settlement broker license application in the format prescribed by the commissioner, and pay an application fee in the amount of \$100, and submit to a criminal history check and pay the associated fee pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7. In addition to finding compliance with Iowa Code section 508E.3, the commissioner also shall find that the applicant:

(1) to (3) No change.

ITEM 11. Amend subparagraph **48.3(8)“b”(1)** as follows:

(1) All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license. As part of the application, the applicant shall submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7.

ITEM 12. Adopt the following new paragraph **48.3(12)“f”**:

f. The fee for a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted by 2020 Iowa Acts, House File 426, section 7, is \$50.

ITEM 13. Amend rule 191—55.1(82GA,HF499), parenthetical implementation statute, as follows:

191—55.1(82GA,HF499 522C) Purpose.

ITEM 14. Amend rule 191—55.2(82GA,HF499) as follows:

191—55.2(82GA,HF499 522C) Definitions. ~~As used in this chapter~~ In addition to the definitions in Iowa Code section 522C.2 and rule 191—1.1(502,505), the following definitions apply, unless the context otherwise requires:

~~“Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.~~

~~“Catastrophic disaster,”~~ according to the Federal Response Plan, means an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local and private sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the governor of the state or district in which the disaster occurred.

~~“Commissioner” means the Iowa insurance commissioner.~~

~~“Division” means the Iowa insurance division.~~

~~“Fingerprints” means an electronic impression of the lines on a human finger taken for the purposes of identification.~~

~~“First-party claim” means a claim filed by a person insured under the insurance policy against which the claim is made~~ the same as defined in Iowa Code section 522C.2.

~~“Home state”~~ means the District of Columbia and any state or territory of the United States in which the public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public

adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the “home state.”

~~“Individual” means a natural person.~~

~~“Insured” means a person insured covered under the insurance policy against which the claim is made.~~

~~“NAIC” means the National Association of Insurance Commissioners.~~

~~“National Insurance Producer Registry” or “NIPR” means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). The NIPR’s website is www.NIPR.com.~~

~~“NIPR Gateway” means the communication network developed and operated by the National Insurance Producer Registry that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of, among other things, public adjuster information regarding license applications, license renewals, appointments and terminations. The National Insurance Producer Registry is a nonprofit affiliate of the NAIC. The NIPR’s Web site is www.licenseregistry.com.~~

~~“Person” means an individual or a business entity.~~

~~“Producer database” means the national database of insurance producers maintained by the NAIC.~~

~~“Public adjuster” means any person who, for compensation or any other thing of value, acts on behalf of an insured by doing any of the following: the same as defined in Iowa Code section 522C.2.~~

~~1. Acting for or aiding an insured in negotiating for or in effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.~~

~~2. Advertising for employment as a public adjuster of first-party claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first-party claims for loss or damage to real or personal property of an insured.~~

~~3. Directly or indirectly soliciting the business of investigating or adjusting losses, or of advising an insured about first-party claims for loss or damage to real or personal property of the insured.~~

~~“Uniform business entity application” means the current version of the NAIC’s uniform business entity application for resident and nonresident business entities.~~

~~“Uniform individual application” means the current version of the NAIC’s uniform individual application for resident and nonresident individuals.~~

ITEM 15. Amend rule 191—55.3(82GA,HF499), parenthetical implementation statute, as follows:

191—55.3(82GA,HF499 522C) License required to operate as public adjuster.

ITEM 16. Amend rule 191—55.4(82GA,HF499) as follows:

191—55.4(82GA,HF499 522C) Application for license.

55.4(1) A person applying for a public adjuster license shall make application on a uniform individual application or uniform business entity application available from the division by mail, through the division’s Web site (www.iid.state.ia.us) through the NIPR Gateway, or as otherwise directed by the division.

55.4(2) Each individual resident applying for a public adjuster license shall be required to submit an electronic set of fingerprints with the application, through the division’s testing vendor, which shall be used by the division to determine the eligibility of the applicant for a license submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7.

ITEM 17. Amend rule 191—55.5(82GA,HF499) as follows:

191—55.5(82GA,HF499 522C) Issuance of resident license.

55.5(1) License of individual. A resident individual acting as a public adjuster is required to obtain a resident public adjuster license. Application shall be made using the uniform individual application. Before approving the an individual’s application, the division shall find that the applicant:

a. Either is eligible to designate this state as the individual’s home state, or is a nonresident who is not eligible for a license under rule 55.8(82GA,HF499) 191—55.8(522C);

- b.* Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in rule ~~55.17(82GA, HF499)~~ 191—55.17(522C);
- c.* No change.
- d.* Is financially responsible to exercise the license and has provided proof of financial responsibility as required in rule ~~55.10(82GA, HF499)~~ 191—55.10(522C);
- e.* Has paid the fees set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C);
- f.* and *g.* No change.
- h.* Has successfully passed the public adjuster examination pursuant to rule ~~55.6(82GA, HF499)~~ 191—55.6(522C).

55.5(2) License of business entity. ~~A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the uniform business entity application.~~ Before approving ~~the~~ a business entity's application, the division shall find that the business entity has:

- a.* Paid the fees set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C);
- b.* and *c.* No change.

55.5(3) No change.

ITEM 18. Amend rule 191—55.6(82GA, HF499) as follows:

191—55.6(82GA, HF499 522C) Public adjuster examination.

55.6(1) A resident individual applying for a public adjuster license under this chapter shall pass a written examination, unless exempt pursuant to rule ~~55.7(82GA, HF499)~~ 191—55.7(522C). The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this rule shall be conducted as prescribed by the division.

55.6(2) Each resident individual applying for an examination shall remit a nonrefundable fee as prescribed by the division and set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

55.6(3) No change.

55.6(4) The division may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the fee set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

ITEM 19. Amend rule 191—55.7(82GA, HF499) as follows:

191—55.7(82GA, HF499 522C) Exemptions from examination.

55.7(1) An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete an examination in this state. However, an individual who moves to this state and who was previously licensed as a public adjuster in another state based on a public adjuster examination shall make application within 90 days of establishing legal residence to become a resident licensed public adjuster pursuant to rule ~~55.5(82GA, HF499)~~ 191—55.5(522C). No examination shall be required of that individual to obtain a public adjuster license. This exemption is available only:

- a.* and *b.* No change.

55.7(2) No change.

ITEM 20. Amend rule 191—55.8(82GA, HF499) as follows:

191—55.8(82GA, HF499 522C) Nonresident license reciprocity.

55.8(1) Unless denied licensure pursuant to rule ~~55.12(82GA, HF499)~~ 191—55.12(522C), an individual for whom Iowa is not the individual's home state, but whose home state awards nonresident public adjuster licenses to residents of Iowa on the same basis, must satisfy the following requirements to obtain an Iowa nonresident public adjuster license:

- a.* and *b.* No change.

c. Pay the appropriate fees required, as set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C).

55.8(2) and **55.8(3)** No change.

55.8(4) If an individual's home state does not license public adjusters or does not award nonresident public adjuster licenses to residents of Iowa on the same basis, the nonresident individual shall follow the procedures for obtaining a license set out in rule ~~55.5(82GA, HF499)~~ 191—55.5(522C).

ITEM 21. Amend rule 191—55.9(82GA, HF499) as follows:

191—55.9(82GA, HF499 522C) Terms of licensure. Unless denied licensure under this chapter or under ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C, persons who have met the requirements of this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29, Iowa Code chapter 522C~~ shall be issued a public adjuster license.

55.9(1) Content of license. ~~Content of license.~~ The license shall contain the public adjuster's name, city and state of business address, license number, the date of issuance, the expiration date, and any other information the division deems necessary. The license number shall be the same as the public adjuster's National Insurance Producer Registry (NIPR) national producer number (NPN). The division will not send a paper license to the public adjuster, but public adjusters may download and print licenses through the division's ~~Web site, www.iid.state.ia.us~~ website.

55.9(2) Term of license. ~~Term of license.~~ A public adjuster license shall remain in effect for a term of two years, unless revoked, terminated or suspended, and may be continually renewed as long as the request for renewal is received, the fee set forth in rule ~~55.20(82GA, HF499)~~ 191—55.20(522C) is paid, and any other requirements for license renewal are met by the renewal due date. The license term shall be as follows:

a. and b. No change.

55.9(3) Suspension for returned payment. ~~Suspension for returned payment.~~ If the division issues or renews a public adjuster license and subsequently determines that payment by check for the license or renewal was returned to the division by a bank without payment, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

55.9(4) Change in name, address or state of residence. ~~Change in name, address or state of residence.~~

a. Name change. If a licensed public adjuster's name is changed, the licensed public adjuster must file notification with the division within 30 days of the name change. ~~Notification may be filed through the NIPR Gateway, if available, or as instructed on the division's website.~~ The notification must include the licensed public adjuster's:

- (1) ~~Former~~ The licensed public adjuster's former name;
- (2) ~~License~~ The licensed public adjuster's license number; and
- (3) ~~New~~ The licensed public adjuster's new name; and
- (4) A copy of a legal document with proof of the name change.

b. and c. No change.

55.9(5) Reporting of actions. ~~Reporting of actions.~~

a. to c. No change.

55.9(6) Failure to notify. Failure to notify the division or to file reports required by this rule is a violation of this chapter and will subject licensed public adjusters to penalty pursuant to ~~subrule 55.19(82GA, HF499)~~ rule 191—55.19(522C).

55.9(7) Renewal of license. ~~Renewal of license.~~

a. to c. No change.

d. A resident public adjuster may reinstate an expired license up to 12 months after the license expiration date ~~by submitting a request to the division and by proving that during the applicable continuing education term, the public adjuster met the continuing education requirements found in rule 191—55.11(522C) and by paying a reinstatement fee and license renewal fees, as set forth in rule 55.20(82GA, HF499)~~ 191—55.20(522C). A resident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

e. A nonresident public adjuster may reinstate an expired license up to 12 months after the license expiration date by submitting a request to the division through the NIPR Gateway and by paying a reinstatement fee and license renewal fee. A nonresident public adjuster who fails to apply for license reinstatement within 12 months of the license expiration date or fails to update the nonresident public adjuster's address pursuant to subrule 55.9(4) must apply for a new license.

f. No change.

55.9(8) Division functions. ~~Division functions.~~

a. and b. No change.

ITEM 22. Amend rule 191—55.10(82GA, HF499), parenthetical implementation statute, as follows:

191—55.10(82GA, HF499 522C) Evidence of financial responsibility.

ITEM 23. Amend rule 191—55.11(82GA, HF499), parenthetical implementation statute, as follows:

191—55.11(82GA, HF499 522C) Continuing education.

ITEM 24. Amend rule 191—55.12(82GA, HF499) as follows:

191—55.12(82GA, HF499 522C) License denial, nonrenewal or revocation.

55.12(1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license; ~~or~~ may levy a civil penalty in accordance with Iowa Code section 505.7A; ~~or may take corrective action pursuant to Iowa Code section 505.8 as amended by 2007 Iowa Acts, House File 499, section 6,~~ or any combination of actions, for any one or more of the following causes:

a. No change.

b. Failing to complete continuing education as required by rule ~~55.11(82GA, HF499)~~ 191—55.11(522C);

c. to k. No change.

l. Failing to comply with an administrative or court order imposing a child support obligation, following procedures of ~~rules 191—10.20(522B) and 191—10.21(522B)~~ rule 191—10.21(252J, 272D), replacing the words word “producer” with “public adjuster”;

m. Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax, following procedures of rule 191—10.21(252J, 272D), replacing the word “producer” with “public adjuster”;

n. No change.

o. Failing to maintain evidence of financial responsibility as required by rule ~~55.10(82GA, HF499)~~ 191—55.10(522C);

p. No change.

q. Failing to report to the division any notifications or actions required to be reported pursuant to rule ~~55.9(82GA, HF499)~~ 191—55.9(522C); or

r. No change.

55.12(2) and 55.12(3) No change.

55.12(4) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine pursuant to Iowa Code section 505.7A, or to other corrective action pursuant to Iowa Code section 505.8 ~~as amended by 2007 Iowa Acts, House File 499, section 6.~~

55.12(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and Iowa Code chapters 505 and 522C against any person who is under investigation for or charged with a violation of this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C, even if the person's license has been surrendered or has lapsed by operation of law.

ITEM 25. Amend rule 191—55.13(82GA, HF499) as follows:

191—55.13(82GA, HF499 522C) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

55.13(1) Definitions and scope. ~~Definitions and scope.~~

- a. No change.
- b. The term “reissuance” as used in this rule means the issuance of a new license following ~~either~~ the revocation of a license, the suspension and subsequent termination of a license, or the forfeiture of a license in connection with a disciplinary matter.
- c. This rule does not apply to the reinstatement of an expired license that is not in connection with a disciplinary matter.

55.13(2) Application required. Any person licensed in Iowa as a public adjuster whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

a. All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license. As part of the application, the applicant shall submit to a criminal history check pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7.

b. to d. No change.

55.13(3) Proceedings. All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

55.13(4) Order. An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner’s designee deems desirable, which may include one or more of the types of disciplinary sanctions provided by this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapters 22 and 505.

55.13(5) Suspension in relation to expiration date. When a public adjuster’s license has been suspended for a period of time which extends beyond the public adjuster’s license expiration date, the license will terminate at the license expiration date, and the public adjuster must request reinstatement pursuant to subrule 55.10(2). If suspension for a period of time ends prior to the public adjuster’s license expiration date and the public adjuster has met all applicable requirements, the division shall reinstate the license at as soon as practicable but no earlier than the end of the suspension period. The commissioner is not prohibited from denying reinstatement or bringing an additional immediate action if the public adjuster has engaged in misconduct during the period of suspension.

55.13(6) Voluntary forfeiture. A request for submission of voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission ~~of the request~~ unless a contested case proceeding is pending at the time ~~the request is submitted~~ of submission. If a contested case proceeding is pending ~~at the time of the request,~~ the forfeiture shall become effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

55.13(7) Forfeiture in lieu of compliance. A license may be voluntarily forfeited in lieu of compliance with an order of the commissioner or the commissioner’s designee with the written consent of the commissioner. The forfeiture shall become effective when and upon such conditions as required by order of the commissioner, which may include one or more of the types of disciplinary sanctions

provided by this chapter and ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 26. Amend rule 191—55.14(82GA,HF499), parenthetical implementation statute, as follows:

191—55.14(~~82GA,HF499~~ 522C) Contract between public adjuster and insured.

ITEM 27. Amend rule 191—55.15(82GA,HF499), parenthetical implementation statute, as follows:

191—55.15(~~82GA,HF499~~ 522C) Escrow accounts.

ITEM 28. Amend rule 191—55.16(82GA,HF499), parenthetical implementation statute, as follows:

191—55.16(~~82GA,HF499~~ 522C) Record retention.

ITEM 29. Amend rule 191—55.17(82GA,HF499), parenthetical implementation statute, as follows:

191—55.17(~~82GA,HF499~~ 522C) Standards of conduct of public adjuster.

ITEM 30. Amend subrule 55.17(3) as follows:

55.17(3) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter or ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 31. Amend rule 191—55.18(82GA,HF499), parenthetical implementation statute, as follows:

191—55.18(~~82GA,HF499~~ 522C) Public adjuster fees.

ITEM 32. Amend rule 191—55.19(82GA,HF499) as follows:

191—55.19(~~82GA,HF499~~ 522C) Penalties. Failure to comply with this chapter or with ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C, shall subject a person to penalties set forth in ~~2007 Iowa Acts, House File 499, section 29~~ Iowa Code section 522C.6.

ITEM 33. Amend rule 191—55.20(82GA,HF499), parenthetical implementation statute, as follows:

191—55.20(~~82GA,HF499~~ 522C) Fees.

ITEM 34. Rescind subrule 55.20(2) and adopt the following **new** subrule in lieu thereof:

55.20(2) The fee for a criminal history check as required pursuant to Iowa Code section 522B.5A as enacted in 2020 Iowa Acts, House File 426, section 7, is \$50.

ITEM 35. Amend rule 191—55.21(82GA,HF499), parenthetical implementation statute, as follows:

191—55.21(~~82GA,HF499~~ 522C) Severability.

ITEM 36. Amend **191—Chapter 55**, implementation sentence, as follows:

These rules are intended to implement ~~2007 Iowa Acts, House File 499, sections 24 to 29~~ Iowa Code chapter 522C.

ITEM 37. Amend **191—Chapter 55**, Appendix I, paragraph (6), as follows:

(6) An insured may contact the Iowa Insurance Division with questions about insurance law toll-free from within Iowa at (877)955-1212 or through the Division's ~~Web site at www.iid.state.ia.us~~ website at iid.iowa.gov.

ITEM 38. Amend rule 191—58.2(510) as follows:

191—58.2(510) Definitions. The terms defined in Iowa Code section 510.11 and rule 191—1.1(502,505) shall have the same meaning for the purposes of this chapter. In addition, for purposes of this chapter:

"Affiliate" or "affiliates" means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person. For purposes of this definition, "control" (including the terms "controls" or "controlled by") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Iowa Code section 505.23 and Iowa Code chapter 521A that control does not exist in fact. The commissioner may determine, after furnishing notice and opportunity to be heard to all persons in interest and after making specific findings of fact to support the determination, that control exists in fact notwithstanding the absence of a presumption to that effect.

~~*"Commissioner"* means the commissioner of insurance for the state of Iowa.~~

~~*"Division"* means the Iowa insurance division.~~

"Home state" means the United States state or territory or the District of Columbia designated by a third-party administrator as its principal regulator, which shall be either its place of incorporation or its principal place of business within the United States. A third-party administrator may designate as its home state any United States jurisdiction in which it does business and which has adopted a law governing third-party administrators substantially similar to Iowa Code chapter 510 and this chapter.

~~*"Insurance producer"* means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance the same as defined in Iowa Code section 522B.1.~~

"Insurer" means a person engaged in the business of insurance who is regulated under Iowa Code chapter 508, 512B, 514, 514B, 515, or 520.

~~*"Nonresident third-party administrator"* means a person who is applying for licensure in Iowa, who is licensed in any state other than Iowa, and whose home state is not Iowa.~~

"Person" means any individual, aggregation of individuals, trust, association, partnership, or corporation or an affiliate of any of these.

"Stop-loss" or "stop-loss insurance" means insurance protecting an employer or other person responsible for an otherwise self-insured health or life benefit plan against higher than expected obligations under the plan.

"Underwrites" or "underwriting" or "underwritten" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan, or the overall planning and coordinating of a benefits program.

ITEM 39. Amend paragraphs **58.3(1)"e"** and **"f"** as follows:

e. A person who is not required to be registered as a third-party administrator under Iowa Code chapter 510 or this chapter and who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, only in connection with life, annuity or health coverage provided by a self-funded plan other than a governmental or church plan, shall file a statement with the commissioner triennially, verifying the person's status as described herein. An example of such a statement may be found on the division's ~~Web site, www.iid.state.ia.us~~ website.

f. An administrator operating solely as a single-employer trust or Taft-Hartley labor union trust as defined under ERISA shall be required to file a statement triennially, verifying the administrator's status as described herein. An example of such a statement may be found on the division's ~~Web site,~~ www.iid.state.ia.us website.

ITEM 40. Amend rule 191—58.5(510) as follows:

191—58.5(510) Renewal procedure. A third-party administrator that wants to maintain its certificate of registration in Iowa shall file a completed request for renewal ~~no later than~~ within 60 days before prior to the expiration date on the certificate of registration.

58.5(1) and 58.5(2) No change.

58.5(3) Renewal requests filed after the ~~60-day period specified~~ certificate expiration date must include the late fee specified in rule 191—58.18(510).

58.5(4) No change.